

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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RANDY HOWARD,

Plaintiff(s),

ORDER

CV 06-3835 (JS) (WDW)

-against-

NASSAU COUNTY, et al.,

Defendant(s).

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WALL, Magistrate Judge:

Before the court is defendants' letter application dated December 10, 2007 seeking an order compelling responses to outstanding discovery demands. No opposition has been received. Defendants' motion to compel is granted, both on the merits and as unopposed.

Defendants served their First Demand for Discovery and Inspection on October 2, 2007. Defendants' counsel has documented her good faith efforts to secure plaintiff's compliance before making this motion. Despite those efforts, plaintiff has failed to respond, and has further failed to respond to this motion.

Plaintiff shall comply with the outstanding discovery by **January 7, 2008**. Furthermore, plaintiff has waived any objections to the outstanding discovery demands. Rule 33(b)(4) provides that any ground for objection "not stated in a timely objection is waived unless the court, for good cause, excuses the failure." The plaintiff has shown no cause at all for his failure to respond to the demands in a timely fashion. In cases where, as here, no good cause has been shown for the late responses, a finding of waiver is appropriate. "Any other result would ignore the time limits set forth in the Federal rules of Civil Procedure, contribute further to the delay in resolving cases, and transform Article V of the Federal Rules of Civil Procedure from a structure of well-defined rights and obligations to a system of suggested, but non-binding, guidelines." *Eldaghar v. City of New York Dep't of Citywide Admin. Svcs*, 2003 LEXIS 19247, at * 3-4 (S.D.N.Y. Oct. 20, 2003). Thus, any objections plaintiff may have had to the demands have been waived.

Finally, defendants are awarded \$200 as reasonable expenses incurred in making the motion, including attorneys' fees, pursuant to Federal Rule 37(a)(5)(A), the plaintiff having made no showing of substantial justification for his failure to timely respond to the discovery demands.

Dated: Central Islip, New York
December 21, 2007

SO ORDERED:

/s/ William D. Wall

WILLIAM D. WALL

United States Magistrate Judge